



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,109	02/17/2004	Jeffrey Jovan Philyaw	PHILY-26,630	6493
25883	7590	03/19/2008		
HOWISON & ARNOTT, L.L.P. P.O. BOX 741715 DALLAS, TX 75374-1715			EXAMINER HOANG, HIEU T	
			ART UNIT 2152	PAPER NUMBER
			NOTIFICATION DATE 03/19/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@dalpat.com

Office Action Summary

Application No.

10/780,109

Applicant(s)

PHILYAW, JEFFREY JOVAN

Examiner

HIEU T. HOANG

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the communication filed on 01/16/2008.
2. The terminal disclaimer filed on 01/16/2008 has been acknowledged and made of record.
3. Claims 1-20 are pending.

Response to Amendment

4. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims 1-20 are previously rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of prior U.S. Patent No. 6,694,356.
6. In the communication filed on 01/16/2008, applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durst Jr. et al. (US 2001/0011276, hereafter Durst), in view of Wilz, Sr. et al. (US 5,992,752, hereafter Wilz).

9. For claim 1, Durst discloses a method for a user accessing information on a network, comprising the steps of:

providing a remote control device operating in a first and control mode with internally generated control commands and in a second and scanning mode ([0011], a TV remote control with bar code scanner);

in the control mode, controlling an appliance at a user location by wirelessly transmitting the control commands to the appliance ([0011], TV remote control for controlling a TV);

in the scanning mode:

forming a representation of machine recognizable code (MRC) information contained within an MRC using the remote control device, the representation of the MRC having associated therewith routing information corresponding to a remote

location on the network ([0011], the remote control scans a bar code, then forms URL address from the bar code);

Durst does not explicitly disclose:

wirelessly transmitting the representation of MRC information contained within the MRC to a network interface device in response to the step of extracting;

connecting the user location over the network to the remote location associated with the representation of the MRC information and downloading the information therefrom; and

displaying the downloaded information on a display at the user location, such that when displayed, substantially immediate feedback is provided to the user in response to the step of scanning.

However, Wilz discloses:

wirelessly transmitting the representation of MRC information contained within the MRC to a network interface device in response to the step of extracting (fig. 1B2, data transmission of decoded URL to an internet terminal);

connecting the user location over the network to the remote location associated with the representation of the MRC information and downloading the information therefrom (fig. 1B4, fig. 4, internet terminal with browser for connecting and downloading web page information associated with the received URL); and

displaying the downloaded information on a display at the user location, such that when displayed, substantially immediate feedback is provided to the user in response to

the step of scanning (fig. 1B4, fig. 4, internet terminal with browser for displaying web page information associated with the received URL).

It would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Durst and Wilz to take advantage of the internet terminal with browser of Wilz to display product-related information after scanning the bar code.

10. For claim 2, Durst-Wilz discloses the invention as in claim 1. Durst-Wilz further discloses the network is a global communication network (Wilz, fig. 4, 5, URL, internet).

11. For claim 3, Durst-Wilz discloses the invention as in claim 1. Durst-Wilz further discloses the step of forming comprises scanning the MRC with a scanner, which scanner is incorporated into the remote control device (Durst, [0011]).

12. For claim 4, Durst-Wilz discloses the invention as in claim 1. Durst-Wilz further discloses the MRC in the step of forming is a UPC associated with an article of commerce (Wilz, col. 25 line 30, UPC).

13. For claim 5, Durst-Wilz discloses the invention as in claim 1. Durst-Wilz further discloses the MRC in the step of forming is associated with a product and the remote location on the network is associated with the product (Wilz, fig. 1D1, product related URL).

14. For claim 6, Durst-Wilz discloses the invention as in claim 1. Durst-Wilz further discloses the display in the step of displaying is disposed in close association with the network interface device (Wilz, fig. 1B4, internet terminal with display browser).

15. For claim 7, Durst-Wilz discloses the invention as in claim 6. Durst-Wilz further discloses the network interface device in the step of wirelessly transmitting and the display in the step of displaying comprise a personal computer (Wilz, fig. 4, a PC).

16. For claim 8, Durst-Wilz discloses the invention as in claim 1. Durst-Wilz further discloses the step of connecting to the remote location and downloading the information therefrom comprises: transmitting the representation of the MRC information to an intermediate location on the network having a relational database associated therewith, which relational database has contained therein relationships between a plurality of representations of MRCs and routing information on the network; comparing the received representation of the MRC information with information in the relational database to determine if a match exists; and if a match exists, accessing the remote location and downloading the information therefrom to the display (Wilz, col. 5 lines 18-22, fig. 11B, col. 27 lines 36-67, an intermediate relational database system RDBMS used for storing information on associated URLs, matching a URL to download information on scanned items).

17. For claim 9, Durst-Wilz discloses the invention as in claim 8. Durst-Wilz further discloses the display and the network interface device are disposed at the user location remote from the remote location on the network (Wilz, fig. 2, fig. 4, display and internet terminal are at the user location) and the step of accessing information from the remote location comprises transferring the routing information from the relational database back to the user location, the user location and the network interface device then accessing the remote location and the information therefrom for download therefrom (Wilz, fig. 2, fig. 4, internet terminal for downloading and displaying information related to the scanned bar code, multiple related links are returned).

18. For claim 10, Durst-Wilz discloses the invention as in claim 1. Durst-Wilz further discloses the step of forming comprises extracting MRC information with a portable extracting device and the step of wirelessly transmitting comprises the steps of: storing the extracted MRC information in a memory; transmitting the stored extracted MRC information to the network interface device in a predetermined number of steps; at the network interface device, receiving the transmitted MRC information and, upon receiving any of the transmitted stored information, utilizing that received stored information to connect to the remote location on the network, while ignoring subsequent transfers of extracted MRC information from the portable extraction device (Wilz, fig. 1B4, PRoM, internet terminal receives the URL then connects to web page to get information from the URL).

19. For claims 11-20, the claims are rejected for same rationale as in claims 1-10 respectively.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu T. Hoang whose telephone number is 571-270-1253. The examiner can normally be reached on Monday-Thursday, 8 a.m.-5 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone

Art Unit: 2152

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HH

/Bunjob Jaroenchonwanit/
Supervisory Patent Examiner, Art Unit 2152